

1 **B. ROBERT ALLARD (#175592)**
2 **MARK J. BOSKOVICH (#298688)**
3 **CERRI, BOSKOVICH & ALLARD LLP**
4 96 North Third Street, Suite 620
5 San Jose, California 95112
6 (408) 289-1417
7 Fax: (408) 289-8127
8 rallard@cbalawfirm.com
9 mboskovich@cbalawfirm.com

10 Attorneys for Plaintiff

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

JOHN DOE, by and through his Guardian ad Litem, MATTHEW DOE,

Plaintiffs,

vs.

SHARKS ICE, LLC, a Delaware corporation; SHARKS SPORTS & ENTERTAINMENT, LLC, a Delaware corporation; KEVIN WHITMER, and DOES 1 through 25, inclusive,

Defendants.

Case No.

COMPLAINT FOR DAMAGES

- (1) Sexual Assault of a Minor**
- (2) Negligent Hiring, Supervision and/or Retention of Kevin Whitmer**
- (3) Negligent Supervision of Plaintiff**

Plaintiff JOHN DOE, by and through his Guardian ad Litem, MATTHEW DOE hereby alleges against SHARKS ICE, LLC, a Delaware corporation; SHARKS SPORTS & ENTERTAINMENT, LLC, a Delaware corporation; KEVIN WHITMER; and DOES 1 through 25, inclusive, as follows:

COMMON ALLEGATIONS

1. Hockey coach, Defendant KEVIN WHITMER [“WHITMER”], used his position with the Jr. Sharks youth hockey organization to groom hockey player, Plaintiff JOHN DOE [“Plaintiff”], for his future sexual advances when he was only 12 years old. After gaining Plaintiff’s trust, Whitmer went on to sexually assault Plaintiff numerous times while he was alone with him in the locker room of the Sharks Ice facility under the guise it would improve Plaintiff’s

1 hockey performance.

2 2. Defendant SHARKS ICE, LLC [“SHARKS ICE”] is a Delaware corporation with
3 its principal place of business located at SAP Center in San Jose, California, the home of National
4 Hockey League team, the San Jose Sharks. At all times mentioned herein, SHARKS ICE
5 managed and oversaw the operations of the San Jose Jr. Sharks [“Jr. Sharks”] youth hockey
6 organization. The Jr. Sharks offers competitive teams for boys (ages 9-18) and girls (ages 8-19).
7 The Jr. Sharks program provides players with the tools and training necessary to compete at USA
8 Hockey’s National Championships, to have the opportunity to attend the National Development
9 Camps, to play Division 1 or Division 3 college hockey, and to encourage dreams of becoming
10 future Olympians or even professional hockey players. All of SHARKS ICE’s administrators,
11 employees and/or board directors are mandated reporters under California Penal Code §
12 11165.7(a)(7) or (8), and are thereby required to report any reasonable suspicion of sexual assault
13 upon a child.

14 3. The home rink of the Jr. Sharks is Sharks Ice at San Jose [“Sharks Ice”], located
15 at 1500 South Tenth Street, San Jose, CA 95112. Sharks Ice is the largest rink facility west of
16 the Mississippi and is one of only seven rink facilities in the United States that currently operates
17 at least six NHL-sized ice rinks. Sharks Ice is also the official practice facility of the NHL’s San
18 Jose Sharks.

19 4. Defendant SHARKS SPORTS & ENTERTAINMENT, LLC [“SSE”] is a
20 Delaware corporation with its principal place of business located at SAP Center in San Jose,
21 California. Plaintiff is informed and believes thereon alleges that, at all relevant times, SSE
22 partnered with SHARKS ICE in overseeing the operations of Jr. Sharks, and SSE employed
23 WHITMER as a AAA Head Coach, Private Skills Instructor and Player Development Coach with
24 the Jr. Sharks from approximately August 2017 through May of 2023.

25 5. Jr. Sharks is a USA Hockey member program bound by the Bylaws, Rules and
26 Regulations, Playing Rules and decisions of the USA Hockey Board of Directors. USA Hockey
27 is the National Governing Body [“NGB”] for competitive hockey in the United States. As NGB
28 for the sport of hockey, USA Hockey is responsible for the conduct and administration of the

1 sport in the United States.

2 6. USA Hockey member programs, including the Jr. Sharks, have been aware for
3 well over a decade of the risk that an underage hockey player could be sexually abused by their
4 hockey coach or private instructor. The sport of hockey posed unique risks to minors because it
5 affords adult coaches and private instructors extended one-on-one access to minors through
6 private lessons and locker room interactions. This risk was so well known that the U.S. Olympic
7 and Paralympic Committee and the federal government chartered and funded a national
8 institution, U.S. Center for SafeSport, whose sole purpose is to assist USA Hockey and its fellow
9 NGBs in preventing sexual abuse. USA Hockey developed policies and procedures relating to
10 sexual misconduct, which it imposed on its members programs, and made readily available on its
11 website.

12 7. USA Hockey published a SafeSport Program Handbook in 2017 which required
13 its member programs to implement specific policies to prevent the sexual abuse of minor hockey
14 players. USA Hockey’s 2017 SafeSport Program Handbook included a locker room policy which
15 stated in part:

16 Youth players are particularly vulnerable in locker rooms, changing areas and
17 restrooms due to various stages of dress/undress and because they are often less
18 supervised than at other times. Athlete-to-athlete problems, such as sexual abuse,
19 bullying, harassment or hazing, often occur when a coach or other responsible
20 adult is not in a position to observe – this is especially true in locker rooms.
Adherence to a locker room policy enhances privacy and significantly reduces the
likelihood of misconduct. . . .

21 **Locker Room Supervision** - USA Hockey is concerned with locker room
22 activities between minor participants; minor participants and adult participants;
23 adults being alone with individual minor participants in locker rooms; and with
non-official or non-related adults having unsupervised access to minor participants
at team events.

24 It is the policy of USA Hockey that all USA Hockey Member Programs must have
25 at least one responsible screened adult (which may include coaches, managers or
26 other volunteers) present monitoring the locker room during all team events to
27 assure that only participants (coaches and players), approved team personnel and
28 family members are permitted in the locker room and to supervise the conduct in
the locker room. Acceptable locker room monitoring could include having locker
room monitors inside the locker room while participants are in the locker room, or
could include having a locker room monitor in the immediate vicinity (near the
door within arm’s length and so that the monitor can sufficiently hear inside the
locker room) outside the locker room that also regularly and frequently enters the

1 locker room to monitor activity inside. *If the monitor(s) are inside, then it is*
2 *strongly recommended that there be two monitors, both of which have been*
3 *screened.* A local program or team may impose or follow stricter monitoring
4 requirements. *Any individual meetings between a minor participant and a coach*
5 *or other adult in a locker room shall require that a second responsible adult is*
6 *present.* The responsible adult that monitors and supervises the locker room shall
7 have completed SafeSport Training in compliance with Section II and completed
8 a background check in compliance with Section III of this Handbook. *All*
9 *programs are responsible to work with their teams and coaches to adequately*
10 *ensure that locker room monitors are in place at all appropriate times.*

11 Further, responsible adults must also secure the locker room appropriately during
12 times when minor participants are on the ice.

13 It shall be permissible for a local program or team to prohibit parents from a locker
14 room. However, in doing so the team shall be required to have properly screened
15 adults monitoring and supervising the locker room as required above. With
16 younger players, it is generally appropriate to allow parents to assist the player
17 with getting equipment on and off before and after games or practices and they
18 should be allowed in the locker room to do so

19 All local programs shall publish locker room policies to the parents of all minor
20 participants that are specific to the facilities they regularly use. The local
21 program's policies shall include the program's (a) practices for supervising and
22 monitoring locker rooms and changing areas; (b) permission or lack of permission
23 for parents to be in the locker rooms; (c) prohibited conduct, including at least all
24 forms of abuse and misconduct prohibited by USA Hockey, and (d) specific
25 policies regarding the use of mobile electronic devices and phones and prohibiting
26 the use of a device's recording capabilities.

27 For each team, the coach and/or team administrators shall be responsible for
28 compliance with the locker room supervision requirements of this Policy. A coach
and/or team administrator that fails to take appropriate steps to ensure the Locker
Room Policy is adhered to, and any USA Hockey participant or parent of a
participant who otherwise violates this Policy is subject to appropriate disciplinary
action.

8. USA Hockey's 2017 SafeSport Program Handbook also included a policy on
electronic communications which stated in part:

All electronic communication between coach and player must be for the purpose
of communicating information about team activities . . . All content between
coaches and players should be readily available to share with the public or families
of the player or coach. If the player is under the age of 18, any email, text, social
media, or similar communication **must** also copy or include the player's parents.

9. Plaintiff is informed and believes, and thereon alleges SHARKS ICE and SSE
executive Jon Gustafson served on USA Hockey Pacific District's Board of Directors at times
when these policies were in place.

1 10. Despite their awareness of the risk of abuse and the explicit sexual abuse
2 prevention policies mandated by USA Hockey, SHARKS ICE and SSE failed to implement
3 and/or enforce USA Hockey’s locker room and electronic communication policies. On the
4 contrary, SHARKS ICE and SSE enabled a toxic culture wherein coaches could freely use the
5 locker rooms to inappropriately isolate their minor male hockey players without the presence of
6 locker room monitors, and could freely engage in one-on-one electronic communication with
7 these players without supervision.

8 11. Defendant KEVIN WHITMER was, at all relevant times, a California resident,
9 and was at all relevant times employed by SHARKS ICE and/or SSE as a Jr. Sharks coach.
10 Plaintiff is informed and believes, and thereon alleges SHARKS ICE and SSE executive Jon
11 Gustafson hired WHITMER as a Jr. Sharks coach in or about August of 2017.

12 12. While coaching at Junior Sharks, WHITMER openly engaged in highly
13 inappropriate and sexual behavior with his male, minor hockey players. WHITMER frequently
14 touched the chest and abdomen of Jr. Sharks players in the locker rooms at Sharks Ice.
15 WHITMER gave some Jr. Sharks players special attention including gifts and free private lessons.
16 WHITMER requested that Jr. Sharks players sit on his lap in the locker room after private lessons.
17 One or more of the Jr. Sharks players referred to WHITMER as a “pedo”, meaning pedophile.
18 Parents of Jr. Sharks players noticed that WHITMER exhibited strange behavior and made them
19 uncomfortable. One Jr. Sharks parent observed two young kids sitting on WHITMER’s lap, and
20 reported this observation to a tournament coordinator at Sharks Ice. The tournament coordinator
21 blew off the parent’s complaint. Another Jr. Sharks parent complained to a Jr. Sharks coach that
22 WHITMER was a creep, that WHITMER’s decisions were guided by wanting power and control
23 of his players, and that WHITMER engaged in inappropriate sexual behavior in front of players
24 such as making out with his girlfriend. The Jr. Sharks coach did not take any action in response
25 to this complaint. Another Jr. Sharks parent observed WHITMER alone with a kid in a Sharks
26 Ice locker room, and confronted WHITMER directly about the concern.

27 13. Further, WHITMER openly violated the few locker room policies Sharks Ice
28 actually implemented. The program supervisor at Sharks Ice who was responsible for maintaining

1 control of the locker room assignment and locker room keys raised several concerns to
2 management and/or human resources at SHARKS ICE and/or SSE as to how WHITMER was
3 breaking Sharks Ice locker room rules. In 2018, this program supervisor notified SHARKS ICE
4 and/or SSE that WHITMER would take the locker room keys for his private lessons on nearly a
5 weekly basis without her knowledge and/or authorization. She raised concerns that WHITMER
6 was using the ice rinks late and was not paying his monthly pro ice fees to the organization. This
7 program supervisor raised these concerns to management at least five to ten times during the
8 2018-2023 period. Plaintiff is informed and believes, and thereon alleges SHARKS ICE and/or
9 SSE management did not take any action in response to the complaints raised by their program
10 supervisor. In fact, SHARKS ICE and/or SSE terminated the program supervisor who raised
11 these concerns in or about March of 2023 for unknown reasons. Plaintiff is informed and believes,
12 and thereon alleges, SHARKS ICE and/or SSE terminated said program supervisor to silence the
13 complaints she was raising concerning WHITMER.

14 14. WHITMER also openly violated USA Hockey's electronic communications
15 policy. WHITMER frequently sent Jr. Sharks players electronic communications without carbon
16 copying said players' parent(s). WHITMER used electronic communication to groom and
17 thereon solicit inappropriate photographs. WHITMER asked his Jr. Sharks players to send him
18 photographs of their abs under the guise of evaluating their fitness. WHITMER asked his Jr.
19 Sharks player to send him photographs of their semen to assess whether it was healthy.

20 15. Plaintiff JOHN DOE was, at all relevant times, a California resident and a minor
21 member of the Jr. Sharks organization. Plaintiff joined the Jr. Sharks in or around 2013 when he
22 was 5 years old. Plaintiff paid fees to SHARKS ICE and/or SSE to participate in the Jr. Sharks
23 program.

24 16. In 2021, Plaintiff's Jr. Sharks team coach, who was roommates with WHITMER
25 at the time, encouraged Plaintiff to train under WHITMER. At the time, WHITMER was
26 coaching an AA and AAA Jr. Sharks Hockey team, and was also providing group and private
27 lessons for Jr. Sharks players at Sharks Ice. In or about April of 2021, Plaintiff [age 12] began
28 participating in group lessons with WHITMER at Sharks Ice. Plaintiff paid ice fees to SHARKS

1 ICE and/or SSE in order to participate in group and private hockey lessons at the Sharks Ice
2 facility.

3 17. Plaintiff is informed and believes, and thereon alleges that beginning in or about
4 April of 2021 SHARKS ICE and SSE knew, had reason to know, or were otherwise on notice
5 that WHITMER was engaging in highly inappropriate grooming behavior with his minor athletes.

6 18. WHITMER used his trusted position as an AA and AAA hockey coach and his
7 clout within the organization to manipulate Plaintiff. WHITMER began overtly grooming
8 Plaintiff in preparation for his future sexual advances when Plaintiff was a naïve 12-year-old boy.
9 WHITMER gave Plaintiff gifts such as free Sharks gloves, spent time with Plaintiff alone in
10 various Sharks Ice locker rooms behind a locked or closed door, and engaged in personal
11 conversations with him to gain Plaintiff's trust. WHITMER frequently sent Plaintiff one-on-one
12 electronic messages without his parents' knowledge.

13 19. Starting in 2021, WHITMER sexually assaulted Plaintiff in various ways.
14 WHITMER gave Plaintiff group and/or private hockey lessons from April of 2021 through May
15 of 2023. After their on-ice lessons, WHITMER would escort Plaintiff into one of the Sharks Ice
16 locker rooms. While alone behind closed doors, WHITMER instructed Plaintiff to sit on his lap,
17 wrapped his hands around Plaintiff's waist and massaged Plaintiff's chest and abdomen.
18 Thereafter, WHITMER proceeded to sexually assault Plaintiff in various ways. WHITMER told
19 Plaintiff he needed to participate in these after-lesson activities in order to medically evaluate
20 him. Once WHITMER initiated the first instance of sexual misconduct, he proceeded to engage
21 in this behavior with Plaintiff after nearly every lesson in one of the Sharks Ice locker rooms.
22 Additionally, during this period of time, WHITMER frequently asked plaintiff to send him images
23 of his chest and abdomen, and explicit photographs of him engaging in sexual acts.

24 20. Plaintiff is informed and believes, and thereon alleges WHITMER used Sharks Ice
25 locker rooms to sexual assault other minor Jr. Sharks hockey players.

26 21. In or about May of 2023, WHITMER left the Jr. Sharks program and began
27 coaching at a youth hockey program in Colorado. Plaintiff is informed and believes, and thereon
28 alleges that SHARKS ICE and/or SSE terminated and/or forced WHITMER to resign from the

1 Jr. Sharks program due to his inappropriate behavior with their minor hockey players.

2 22. In or around August of 2023, two Jr. Sharks parents filed formal complaints with
3 U.S. Center for SafeSport and/or USA Hockey wherein they detailed WHITMER's inappropriate
4 behavior with minor Jr. Sharks hockey players.

5 23. On October 31, 2023, Plaintiff filed a police report with the San Jose Police
6 Department regarding WHITMER's abuse.

7 24. In November of 2023, WHITMER was arrested and charged with thirty felony
8 counts of Penal Code 288a(b)(1) in relation to his sexual abuse of Plaintiff, and twenty-five counts
9 of possession of child pornography.

10 25. The true names and/or capacities, whether individual, corporate, associate, or
11 otherwise, of defendants named herein as DOES 1 through 25, inclusive are unknown to Plaintiff
12 at this time, and Plaintiff therefore sues said defendants by such fictitious names. Plaintiff will
13 seek leave to amend this Complaint to allege their true names and capacities when the same have
14 been ascertained. Plaintiff is informed and believes, and thereon alleges that each of the
15 defendants designated herein as a DOE is responsible in some manner or is otherwise legally
16 liable to Plaintiff for the injuries complained of herein.

17 26. At all times herein mentioned, some or all of the defendants was an agent, servant,
18 employee, partner, alter ego, joint venture, franchisee, aider and abettor, and/or co-conspirator,
19 and engaged in a common or common enterprises with each of the remaining defendants herein,
20 and was at all relevant times acting within the course and scope of said agency, service,
21 employment, partnership, joint venture, franchise, unlawful enterprise, conspiracy and/or other
22 lawful or unlawful conduct as herein alleged.

23
24 **FIRST CAUSE OF ACTION**
Sexual Assault of a Minor

25 As and for a First Cause of Action, Plaintiff alleges against defendants KEVIN
26 WHITMER, and DOES 1 through 5 as follows:

27 27. Plaintiff hereby incorporates all paragraphs of his Common Allegations, as though
28 set forth in full herein.

1 by coaches; reporting to law enforcement and/or child protective services any reasonable
2 suspicion of child abuse by a coach; adequately training and educating its coaches and staff on its
3 child abuse prevention policies, how to detect and deter predatory behaviors between coaches and
4 players, and mandated reporter obligations; terminating or suspending the
5 membership/employment of coaches that have engaged in and/or permitted the sexual abuse of a
6 minor athlete; implementing reasonable safeguards to avoid acts of childhood sexual assault;
7 and/or otherwise conducting themselves with due care so as to avoid injuring Plaintiff.

8 34. Said defendants, and each of them, breached said duties by, *inter alia*, failing to
9 properly vet WHITMER prior to hiring him, failing to properly supervise WHITMER's behavior
10 with their minor athletes, permitting WHITMER's repeated violation of relevant rules and
11 regulations designed to protect minors from abuse; failing to detect WHITMER's course of
12 inappropriate behavior towards plaintiff and/or his preferential treatment of him; failing to
13 appropriately educate and/or train coaches and staff on detecting and/or deterring inappropriate
14 conduct towards minors under their care; failing to appropriately train coaches and staff on
15 inappropriate behaviors between adult coaches and minor members [such as spending time alone
16 with a minor in the hockey arena's locker room or sending one-on-one electronic
17 communications], failing to implement and/or enforce proper policies and procedures for the
18 protection of minor athletes, failing to respond appropriately to complaints from parents and staff
19 regarding WHITMER's predatory behavior, failing to repudiate WHITMER's predatory
20 behavior; and/or failing to report inappropriate behaviors to the authorities for proper
21 investigation.

22 35. Plaintiff is informed and believes, and thereon alleges SHARKS ICE and SSE
23 made a concerted effort to hide evidence relating to childhood sexual assault before and/or during
24 WHITMER's sexual assaults of Plaintiff. Plaintiff is entitled to treble damages pursuant to Code
25 of Civil Procedure § 340.1(b)(1) against SHARKS ICE and SSE.

26 36. As a legal result of the foregoing, Plaintiff was sexually groomed and molested by
27 WHITMER, causing him emotional and physical injuries. Plaintiff continues to suffer the effects
28 of such injuries, causing him special and general damages as hereinabove alleged, and entitling

1 him to the remedies claimed hereinabove.

2
3 **THIRD CAUSE OF ACTION**
4 **Negligent Supervision of Plaintiff by SHARKS ICE and SSE**

5 As and for a Third Cause of Action, Plaintiff alleges against defendants SHARKS ICE,
6 LLC., SHARKS SPORTS AND ENTERTAINMENT, LLC., and DOES 16 through 25 as
7 follows:

8 37. Plaintiff hereby incorporates all paragraphs of his Common Allegations and First
9 and Second Causes of Action, as though set forth in full herein.

10 38. SHARKS ICE and SSE owed a duty to protect Plaintiff while he was entrusted to
11 their care. As Plaintiff was a member athlete with Jr. Sharks, SHARKS ICE and SSE's
12 employees owed him a duty of care to, *inter alia*, properly supervise Plaintiff to protect him from
13 potential dangers while at Sharks Ice facilities and to report any reasonable suspicion of child
14 abuse to law enforcement and/or child protective services.

15 39. SHARKS ICE and SSE's employees breached said duties owed by failing to
16 properly supervise Plaintiff such that WHITMER was allowed to openly groom and sexually
17 assault Plaintiff in the Sharks Ice locker rooms; failing to enforce its own locker room policy
18 such that WHITMER was able to isolate Plaintiff in the Sharks Ice lockers rooms; failing to
19 report a reasonable suspicion of child abuse by WHITMER to law enforcement and/or child
20 protective services; and failing to train and/or educate SHARKS ICE and SSE's coaches and staff
21 on how to effectively supervise its minor athletes.

22 40. As a legal result of the foregoing, Plaintiff was repeatedly sexually assaulted, and
23 thereby suffered physical, mental and emotional injuries, all to his general damages as
24 hereinbefore alleged.

25 **PRAYER**


26 WHEREFORE, PLAINTIFF prays for judgment as follows:

- 27 1. For all special and all other economic damages according to proof;
28 2. For general damages and other non-economic relief, according to proof;
3. For prejudgment interest, as allowed by law;

- 1 4. For punitive damages against defendant WHITMER;
- 2 5. For treble damages against SHARKS ICE and SSE pursuant to Code of Civil
- 3 Procedure § 340.1(b)(1).
- 4 6. For costs of suit herein; and,
- 5 7. For such other and further relief as the court may deem fit and proper.

7 Dated: March 7, 2024

CERRI, BOSKOVICH & ALLARD LLP

9 By: 
10 _____
11 B. ROBERT ALLARD
12 MARK J. BOSKOVICH
13 Attorneys for Plaintiff

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